

922 KAR 1:010. Independent adoptions.

RELATES TO: KRS 199.011, 199.470-199.472, 199.473, 199.480, 199.490(3), 199.492, 199.493, 199.500, 199.510, 199.520, 199.540, 199.570, 199.572, 199.590, 199.990, 615.030, Chapter 625,

STATUTORY AUTHORITY: KRS 194.A050(1), 199.472, 199.473(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate, administer, and enforce administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.472 requires the cabinet to promulgate administrative regulations that establish criteria to be followed for adoption of children. KRS 199.473(3) requires a home study to be made in accordance with administrative regulations promulgated by cabinet. This administrative regulation establishes the procedure in an independent adoption.

Section 1. Definitions. (1) "Adoption worker" is defined by KRS 199.011(8).

(2) "Child" is defined by KRS 199.011(4).

(3) "Child-placing agency" is defined by KRS 199.011(7).

(4) "Foster family home" is defined by KRS 199.011(9).

(5) "Interstate compact administrator" is defined by KRS 615.030, Article VII.

(6) "Placement services" is defined by KRS 199.011(13).

(7) "Voluntary and informed consent" is defined by KRS 199.011(14).

Section 2. Eligibility. The cabinet shall:

(1) Process an application for an independent adoption in accordance with Section 3 of this administrative regulation; and

(2) Assure a home study is conducted according to federal poverty level guidelines in accordance with KRS 199.473(3).

Section 3. Application for Permission to Place or Receive a Child. (1) To apply for permission to place or receive a child for independent adoption, an applicant shall complete and file the "DPP-187, Independent Adoption Application," in accordance with subsections (2) through (8) of this section.

(2) The DPP-187 shall be:

(a) Signed by:

1. The proposed adoptive parent or parents wishing to receive a child;
2. The parent or parents wishing to place a child; or
3. Both parties involved;

(b) Filed in duplicate and in writing with the secretary, in care of the Commissioner of the Department for Community Based Services;

(c) Filed by means of certified or registered mail;

(d) Accompanied by the forms and information listed in subsection (3) of this section; and

(e) Accompanied by a nonrefundable fee of \$200, required by KRS 199.473(13), which shall be:

1. In the form of a certified or cashier's check; and
2. Payable to the Kentucky State Treasurer.

(3) The following forms and documents shall be filed with the completed DPP-187:

(a) The "DPP-105, Medical Information on Child's Birth", or a copy of the child's hospital newborn medical record;

- (b) If the child's custody has been awarded to the proposed adoptive parent:
 - 1. A copy of the custody order; and
 - 2. Copies of background checks conducted in accordance with KRS 199.473(8);
- (c) The "DPP-190, Information to be Obtained from Proposed Adoptive Parent(s)";
- (d) The "DPP-190A, Supplemental Information to be Obtained from the Proposed Adoptive Parent(s)";
- (e) Verification of current marriage, prior divorce, or death of a prior spouse of the proposed adoptive parent;
- (f) Most recent tax return or written verification of income from the income source for the proposed adoptive parent;
- (g) The "DPP-108A, Health Information Required for Proposed Adoptive Parent(s) Regarding Dependent Children"; and
- (h) The "DPP-107, Health Information Required for Resource Home Applicants or Adult Household Members", incorporated by reference in 922 KAR 1:350, completed by the proposed adoptive parent.
- (4) The DPP-187 may be obtained at:
 - (a) Local Department for Community Based Services offices; or
 - (b) The central office in Frankfort, Kentucky
- (5) The DPP-187 shall be considered officially filed:
 - (a) When received in the office of the Commissioner of the Department for Community Based Services; and
 - (b) If it meets the requirements of this section.
- (6) The DPP-187 shall not be processed if, prior to the receipt of the application, the child was committed to the cabinet by order of the district or circuit court.
- (7) The cabinet shall return to sender:
 - (a) An incomplete application; or
 - (b) An application for an unborn child submitted more than thirty (30) days in advance of the child's expected due date.
- (8) The returned receipt of certified or registered mail shall be proof of the filing of the application.

Section 4. Limitations to Filing. (1) In the case of twins who are available and suitable for adoption, the DPP-187 shall not be accepted unless the proposed adoptive parent applies to receive both children.

(2) If the DPP-187 for a child has been filed, subsequent applications for the same child shall not be accepted unless the previous DPP-187 has been withdrawn by a written request to the cabinet by one (1) of the parties involved.

Section 5. Interstate Adoptions. (1) An interstate adoption shall be in accordance with KRS 199.473(12).

- (2) A prospective adoptive parent who resides in a state other than Kentucky shall:
 - (a) Meet application requirements of Section 3 of this administrative regulation; and
 - (b) Submit the DPP-187, but may substitute other forms required in Section 3 of this administrative regulation with comparable forms from the prospective adoptive parent's state of residence.

Section 6. Preadoptive Placement. (1)(a) The child shall not be in the physical care, control, or custody of the proposed adoptive parent, unless a circuit court grants temporary custody in accordance with KRS 199.473(7) and (8).

- (b) If the child is found in the physical care of the proposed adoptive parent without a circuit

court order of temporary custody, the cabinet shall take action in accordance with KRS 199.473(11) until the written approval of the secretary or designee is received by the proposed adoptive parent.

(2)(a) If either the child's custodial parent or the proposed adoptive parent reside out-of-state, the written approval of the interstate compact administrator shall be given before the child's pre-adoptive placement with the proposed adoptive parent can occur.

(b) If the child's custodial parent resides out-of-state and the child is found in Kentucky without the approval of the interstate compact administrator, the child shall be removed from Kentucky and a neutral setting arrangement made within the state of the custodial parent's residence.

(3) If the disposition of the DPP-187 is pending, the cabinet may cooperate with the custodial parent of the child in finding suitable temporary placement for the child.

(4)(a) During the time between filing the DPP-187 and the decision of the cabinet granting or denying the application, the responsibility for providing for the care of the child shall not rest with the cabinet unless a court has placed the child with the cabinet, with the agreement of the cabinet, after the filing of the DPP-187.

(b) The responsibility shall remain with the custodial parent of the child during this time.

Section 7. Home Study Requirements. (1) When the DPP-187 has been filed with the Commissioner of the Department for Community-Based Services, the department shall cause a home study of the proposed adoptive home to be completed, in accordance with the provisions of KRS 199.473(2), (3), and (4).

(2) The home study for an out-of-state proposed adoptive home shall be accepted if conducted by the:

(a) Out-of-state public agency; or

(b) Licensed child-placing agency in the respective receiving state if the public agency is unable or unwilling to provide the service.

(3)(a) Prior to filing a DPP-187, the proposed adoptive parent may contract with a licensed child-placing agency to complete a home study and background checks of the proposed adoptive parent and household.

(b) The home study of a proposed adoptive parent shall include:

1. A minimum of three (3) personal references, including one (1) from a relative of the proposed adoptive parent;

2. A minimum of two (2) financial references;

3. Criminal background check conducted in accordance with:

a. KRS 199.473(2); or

b. The policy and laws of the receiving state's child welfare agency, if the proposed adoptive parent resides in a state other than Kentucky; and

4. Child abuse and neglect check:

a. In accordance with 922 KAR 1:490; or

b. Conducted by the receiving state's child welfare agency, if one is available and the proposed adoptive parent resides in a state other than Kentucky;

5. Documentation by the adoption worker of:

a. A minimum of one (1) home visit and face-to-face interview with each proposed adoptive parent and members of the parent's household; and

b. Contact with the proposed adoptive parent's adult child on the "DPP-197, Adult Child Interview", if the cabinet is able to locate the adult child; and

6.a. Section I of the "DPP-199, Independent Adoption Home Study Outline", completed by the adoption worker in regard to the proposed adoptive parent's home and family background; and

b. A determination by the adoption worker of the proposed adoptive parent's suitability to pro-

ceed with an independent adoption.

(4) If an adoption worker for a licensed child-placing agency determines, at the completion of background checks in accordance with KRS 199.473(8), that the proposed adoptive parent does not appear suitable to proceed with an independent adoption, the worker shall provide written notification to the Department for Community-Based Services, Adoption Section, 275 East Main Street, Frankfort, Kentucky 40621.

(5) The adoption worker shall discuss the child's background and proposed placement with the proposed adoptive parent and make a determination of the proposed adoptive home's ability to meet the needs of the specific child and provide the child with a suitable home.

(6) The adoption worker shall complete the DPP-199 for review and:

(a) Processing with the Interstate Compact, if applicable; and

(b) Consideration in the Commissioner's decision about the application for an independent adoption.

Section 8. Interviewing the Biological Parents. (1) If the biological or placing parents, legal father, or putative father reside in Kentucky, the adoption worker shall make a diligent effort to interview the custodial biological or placing parent of the child to be placed and the non-custodial biological parent, legal father, or putative father to:

(a) Determine whether or not the biological parents are aware and accepting of the ethnic and religious background of the receiving parents;

(b) Determine whether or not they agree to the placement of the child with the proposed receiving parents;

(c) Obtain health history and sociological information on the child's family with a "DPP-191, Information to be Obtained From the Placing Parent";

(d) Document the placing parent's knowledge of the independent adoption with the "DPP-191A, Information to Be Obtained from the Placing Parent"; and

(e) Determine the biological parents' feelings about possible future contact with the adopted person on a "DPP-192, Biological Parent Consent Form", in accordance with KRS 199.572.

(2) If the child's placing parent refuses to be interviewed by the cabinet representative or the appropriate Kentucky or out-of-state adoption worker, the cabinet may deny the application.

(3)(a) If a child's placing parents live out-of-state, efforts shall be made to have the biological or placing parents and legal, or putative father, if different than the biological father, interviewed for the purposes specified in subsection (1) of this section.

(b) The interviews with out-of-state biological or placing parents, legal, or putative father shall be accepted if conducted by:

1. An out-of-state public agency; or

2. A licensed private adoption agency in the respective state, if the public agency is unable or unwilling to provide the service.

(4) If after diligent efforts of the out-of-state public or private agency, the biological or placing parents, legal, or putative father, or legal custodian of the child cannot be interviewed, or if the information and material cannot be obtained, the secretary or designee may approve the placement provided the other conditions of KRS 615.030, the Interstate Compact on the Placement of Children, have been met.

Section 9. Final Decision Regarding Prospective Adoptive Home. (1) Upon completion of the home study of the proposed adoptive home, a proposed adoptive parent shall be notified by registered or certified mail of the decision of the secretary or designee, either granting or denying permission for the placement or receiving of the child.

(2) The child shall be placed in the home of the proposed adoptive parent immediately, if:

- (a) The cabinet grants permission for the child's placement; and
- (b) The child is available for placement.
- (3) If the permission is denied, the proposed adoptive parent or parents or the placing parent or parents may appeal the decision. If appealing, the proposed adoptive parent or parents or placing parent or parents shall, within ten (10) days after notice of denial, appeal the decision to the circuit court of the county in which the adoption is proposed in accordance with KRS 199.473(9).

Section 10. Filing of the Petition to Adopt. (1) If a child has been placed in a proposed adoptive home with the permission of the secretary or designee, the proposed adoptive parent or parents may file the petition for adoption in the circuit court in the county of their residence with the secretary's or designee's written approval in accordance with KRS 199.470(3) and 199.473.

(2) Subsequent to the filing of a petition in Kentucky to finalize an independent adoption made with the written approval of the secretary, the agency which completed the independent adoption placement home study shall prepare the confidential report to the court in accordance with KRS 199.510(2) and KRS 199.590(6).

Section 11. Service Appeals. A person aggrieved by a cabinet action with regard to an independent adoption may request an administrative hearing in accordance with 922 KAR 1:320.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "DPP-105, Medical Information on Child's Birth, edition 11/05";
- (b) "DPP-108A, Health Information Required for Proposed Adoptive Parent(s) Regarding Dependent Children, edition 11/05";
- (c) "DPP-187, Independent Adoption Application, edition 3/15";
- (d) "DPP-190, Information to be Obtained from Proposed Adoptive Parent(s), edition 11/05";
- (e) "DPP-190A, Supplemental Information to be Obtained from the Proposed Adoptive Parent(s), edition 11/05";
- (f) "DPP-191, Information to be Obtained from the Placing Parent, edition 11/05";
- (g) "DPP-191A, Information to be Obtained from the Placing Parent for Independent Adoptions, edition 11/05";
- (h) "DPP-192, Biological Parent Consent Form, edition 11/05";
- (i) "DPP-197, Adult Child Interview, edition 11/05"; and
- (j) "DPP-199, Independent Adoption Home Study Outline, edition 11/05".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday 8 a.m. to 4:30 p.m. (DCW-DLS 2, 3, 4; 1 Ky.R. 294; eff. 1-8-1975; 14 Ky.R. 1009; eff. 12-11-1987; 18 Ky.R. 1598; eff. 1-10-1992; 20 Ky.R. 865; eff. 12-6-1993; 21 Ky.R. 651; 1072; eff. 9-21-1994; Recodified from 905 KAR 1:010, 10-30-1998; 32 Ky.R. 566; TAm eff. 10-27-2004; 894; eff. 11-16-2005; TAm eff. 3-30-2015.)